



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 6,463,803
Issue Date: October 15, 2002
Application No.: 09/749,693
Filing Date: December 28, 2000
Applicant: Tetsuo Fujii et al.
Group Art Unit: 2856
Examiner: Helen Kwok
Title: Semiconductor Mechanical Sensor
Attorney Docket: 4041K-000065/DVE

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OFFICE OF PETITIONS

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Commissioner for Patents,
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Alexandria, VA 22313-1450

02/02/2011 SZEWDIE1 00000001 6463803

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400.00 OP

**PETITION UNDER 37 CFR 1.182 TO
WITHDRAW THE TERMINAL DISCLAIMER WITH THE INCORRECT
(TRANPOSED) PATENT NUMBER, AND REPLACE IT WITH A CORRECTED
TERMINAL DISCLAIMER HAVING THE CORRECT PATENT NUMBER**

Sir:

It has come to the Applicants' attention that the terminal disclaimer filed during the prosecution of the above patent (Application No. 09/749693 now Patent No. 6,463,803) incorrectly disclaims patent 5,416,916, and that the correct patent number is 5,461,916. It appears that the "6" and "1" were inadvertently transposed. Pursuant to 37 CFR 1.182, Applicants hereby petition to withdraw the terminal disclaimer filed

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during the prosecution of the above patent, and replace it with a corrected terminal disclaimer having the correct patent number.

Statement

According to MPEP 1490 (VII)(B), where a terminal disclaimer was: 1) submitted to overcome a non-statutory double patenting rejection during the prosecution of an issued patent and 2) the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed, a petition under 37 CFR 1.182 may be filed to withdraw the terminal disclaimer with the incorrect (transposed) patent number (recorded in the issued patent), and replace it with a corrected terminal disclaimer having the correct patent number.

According to the prosecution history, in the May 2001 Office Action, the Examiner cited a non-statutory double patenting violation over US Patent No. "5,416,916 (Fujii et al)" (emphasis added). In response to the Office Action, a terminal disclaimer was filed and cited the 5,416,916 patent. However, patent 5,416,916 refers to a structure for enabling direct memory to memory transfer with a fly by DMA unit, and was invented by Bayle, not Fujii et al. The correct patent is 5,461,916 Mechanical Force Sensing Semiconductor Device by Fujii et al. Based on the irrelevancy of patent 5,416,916 and the Examiners notation of "Fujii et al" in the Office Action, it is clear that the Examiner inadvertently transposed the "6" and "1". The correct patent number is 5,461,916 (Fujii et al.): Mechanical Force Sensing Semiconductor Device.

Based on the foregoing, Applicants respectfully petition under 37 CFR 1.182 to withdraw the terminal disclaimer with the incorrect patent number 5,416,916, and

replace it with a corrected terminal disclaimer having the correct patent number 5,461,916.

Applicants also respectfully assert that the earlier patent term period based on the incorrect patent should not be retained since the initial error occurred with the Examiner and not the Applicant. Applicants respectfully assert that the patent term be based on patent 5,461,916.

It is submitted that the Office should waive the petition fee under 37 1.17(f) since the error of the transposed number was initially with the Examiner. Nevertheless, the Commissioner is hereby authorized to charge any fees that may be required to Account No. 08-0750. If it is believed that personal communication will expedite prosecution of this application, please telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: January 28, 2011

By: 
Michael J. Schmidt, Reg. No. 34,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

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